

F-7889

Ser. No. 10/616,324

REMARKS

Claims 1-20 remain in this application.

The Office Action requires election of a species from the following: Group I, drawn to the first embodiment of the invention having a description beginning on page 5, at lines 19-23; Group II, drawn to drawn to a modification of the first embodiment of the invention having a description beginning on page 17, at lines 20-25; Group III, drawn to drawn to the second embodiment of the invention having a description beginning on page 18, at line 24; and Group IV, drawn to the first embodiment of the invention having a description beginning on page 30, at lines 8-17.

INTERVIEW ACKNOWLEDGMENT

The applicant and applicant's attorney appreciate the Examiner's granting of the telephone interview conducted on September 11, 2007, and extend their thanks to the Examiner for his time and consideration. During the interview the subject considered included in respective ones of the Species I-IV was discussed. It was agree that the subject matter of respective species was not limited to material contained in the ranges of lines recited in the Office Action, but is intended to encompass the corresponding embodiments noted above as disclosed in the specification and drawings.

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The restriction of Species I and II was discussed. Applicant's attorney averred that no serious burden has been established for considering in one application both embodiment I of the invention and its modification discussed on page 17 of the specification. There is no class distinction between the two and the operational difference does not present a substantial searching criteria change. Thus, it is submitted that Species I and II are both entitled examination in this application and the restriction is hereby traversed. The Examiner agreed to consideration of both Species I and II provided that no undue burden resulted from such consideration.

Applicant elects Species I. Claim 1 reads on Species I. Claim 2 reads on Species II. Applicants hereby request examination of claims 1 and 2 in view of the traversal of the restriction requirement herein and the interview agreement.

TRAVERSAL OF RESTRICTION OF SPECIES REQUIREMENT

Applicant traverses the restriction requirement as applied to Species I-VIII on two grounds. First, the restriction presented fails to properly state a case for restriction. Second, the species are so closely related that a search in either Species would essentially be identical and not present a serious burden on the Examiner.

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A. Office Action does not satisfy requirements for setting forth a restriction requirement.

The MPEP specifically requires that, in making a restriction rejection requiring election of species, the Examiner state both reasons for distinctiveness and reasons establishing why examination of all claims would present a "serious burden" on the Examiner. In particular, MPEP §808.01 (8th Ed., Rev. 5) states the following with regard to establishing distinctiveness:

The particular reasons relied on by the examiner for holding that the inventions as claimed are either independent or distinct should be concisely stated. A mere statement of conclusion is inadequate. The reasons upon which the conclusion is based should be given.

In making the present rejection it is respectfully submitted that the Examiner has not detailed specific structural reasons for the distinctiveness of the species proposed by the Examiner. Hence, a mere conclusion is stated that the species are "mutually exclusive" and a proper restriction is not set forth.

Still further, it is necessary that a serious burden on the Examiner be established. MPEP §808.01(a) specifically states:

A requirement for restriction is permissible if there is a patentable difference between the species as claimed and there would be a serious burden on the examiner if restriction is not required. See MPEP § 803 and § 808.02.

Where there is a relationship disclosed between species, such disclosed relation must be discussed and reasons advanced leading to the conclusion that the disclosed relation does not prevent restriction, in order to establish the propriety of restriction.

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In the present invention claims, each recites a use of more than one image forming apparatus, a computer, and interconnection of the same via a network. The Examiner has stated different classes are involved but has not identified different classes which are applicable to the claims. Applicant submits that the same classes are applicable to each claim. Therefore, a proper restriction has not been set forth in view of this deficiency in addition to the above noted lack of statement of reasons for the distinctiveness. As such, it is submitted that it would be improper to make any Office Action issued in response to this reply final with regard to the restriction since applicant has not had the opportunity to reply to reasons necessary for the Examiner to make the restriction in the first place. It is further submitted that the lack of proper statement of reasons supporting the restriction requirement is indicative of the inappropriateness of such a requirement.

B. Claims pending do not present a serious burden to the Examiner and thus are not subject to restriction.

Applicant further submits that the present claims cannot be restricted because it cannot be established that they present a serious burden on the Examiner. This lack of burden is clearly established by the claim characteristics. Each claim recites dividing a print job and effecting printing of the print job using more than one printing apparatus, and the subsequent co-arranging of the print

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jobs. Hence, a relationship exists. Since the Examiner has not identified different classes which are applicable to the claims, and the noted relationship exists, applicant submits that the same classes are applicable to each claim.

In view of the fact that the claims in question here have related subject matter and in view of the requirements set forth by the MPEP, reconsideration of the restriction requirement is respectfully requested and withdrawal of this restriction is respectfully requested.

REQUEST FOR EXTENSION OF TIME

Applicant respectfully requests a one month extension of time for responding to the Office Action. The fee of \$120.00 for the extension is provided for in the charge authorization presented in the PTO Form 2038, Credit Card Payment form, provided herewith.

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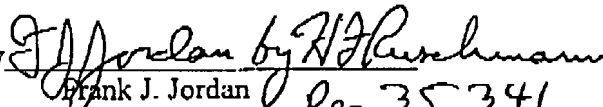
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In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited.

Respectfully submitted,
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